

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
Monday, July 28, 2008 – 9:00 a.m. – Room C445 State Capitol

**Members Present:**

Sen. Howard A. Stephenson, Senate Chair  
Rep. Ben C. Ferry, House Chair  
Sen. Gene Davis  
Sen. Mark B. Madsen  
Sen. Michael G. Waddoups  
Rep. James R. Gowans  
Rep. Kory M. Holdaway  
Rep. Carol Spackman Moss  
Rep. Merlynn T. Newbold

**Members Excused:**

Sen. Mike Dmitrich

**Staff Present:**

Mr. Arthur L. Hunsaker, Policy Analyst  
Ms. Susan Creager Allred, Associate General Counsel  
Ms. Tracey Fredman, Legislative Secretary

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.leg.utah.gov](http://www.leg.utah.gov).

**1. Committee Business**

Chair Ferry called the meeting to order at 9:20 a.m.

**2. Insurance Department Regulation of the WIN Association**

Sen. Stephenson reported that the Utah Insurance Department filed a Cease and Desist Order against the W.I.N. Association (Association) for practicing insurance without a license. The Association has recently received a letter from the Department saying that when the Association can show proof that it has been accepted under the federal ERISA (Employee Retirement Income Security Act), placing it under the jurisdiction of the U.S. Department of Labor, the Cease and Desist Order will be withdrawn.

Mr. Michael Bianchi, CEO, W.I.N. Association, LLC, Association Group Health Plan, distributed a letter from J. Keith Stanley, Attorney, to the Utah Insurance Department, dated July 8, 2008, stating that the Association has met all of the ERISA requirements to be established as a self-funded group plan, and is not subject to the jurisdiction of the Utah Department of Insurance.

Mr. Bianchi provided an overview of the health plan provided by the Association to its members. He discussed affordability, comprehensive coverage, the focus on wellness, and responded to questions from the Committee.

Mr. John "Mickey" Braun, Assistant Commissioner, Utah Insurance Department, restated that until the Association can provide proof from the U.S. Department of Labor that it is in compliance with ERISA requirements, the Cease and Desist Order will remain in effect.

**3. Update: Statutes Granting Authority to Establish Criminal Penalties by Rule**

Mr. Hunsaker presented a brief history of 2008 General Session H.B. 80, "Administrative Rule Penalty Amendments," as passed.

Ms. Allred noted the previously-expressed general preference of the Committee that the Legislature retain the authority to impose criminal penalties rather than delegate it to executive branch agencies. She observed some agencies feel their rules are too lengthy to be in statute, and that some agencies have stated the need for more flexibility for regulation than is allowed by annual legislative sessions. She also said the Committee may wish to request that agencies provide cites to federal statute or regulation that require state agencies to have authority to set criminal penalties by rule, or that make federal funding contingent on retaining that authority.

Rep. Ferry said that a new bill draft will be presented to the Committee in October.

**4. Committee Business**

Future meetings were scheduled for August 11 and September 9, 2008.

**5. Adjourn**

Chair Ferry adjourned the meeting at 10:45 a.m.